

AMENDED IN ASSEMBLY MAY 12, 2004
AMENDED IN ASSEMBLY MARCH 31, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2930

Introduced by Assembly Member Koretz

February 20, 2004

An act to amend Section 3303 of the Government Code, relating to public safety officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2930, as amended, Koretz. Public safety officers: discipline.

Existing law sets forth the conditions for interrogation of a public safety officer who is under investigation, when the interrogation could lead to punitive action. Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters that are likely to result in punitive action against a public safety officer, the officer has the right to be represented by a representative of his or her choice, and the representative may not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the officer under investigation for noncriminal matters.

This bill would additionally provide that, ~~in criminal matters~~, the representative may not be required to disclose, nor be subject to punitive action for refusing to disclose, ~~information received from the officer before the officer was informed in writing that the~~ *any information not related to a crime, whether a criminal investigation is or is not in progress. It would also require an officer under investigation to be informed in writing when an investigation involves criminal matters.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3303 of the Government Code is
2 amended to read:

3 3303. When any public safety officer is under investigation
4 and subjected to interrogation by his or her commanding officer,
5 or any other member of the employing public safety department,
6 that could lead to punitive action, the interrogation shall be
7 conducted under the following conditions. For the purpose of this
8 chapter, punitive action means any action that may lead to
9 dismissal, demotion, suspension, reduction in salary, written
10 reprimand, or transfer for purposes of punishment.

11 (a) The interrogation shall be conducted at a reasonable hour,
12 preferably at a time when the public safety officer is on duty, or
13 during the normal waking hours for the public safety officer,
14 unless the seriousness of the investigation requires otherwise. If
15 the interrogation does occur during off-duty time of the public
16 safety officer being interrogated, the public safety officer shall be
17 compensated for any off-duty time in accordance with regular
18 department procedures, and the public safety officer shall not be
19 released from employment for any work missed.

20 (b) The public safety officer under investigation shall be
21 informed prior to the interrogation of the rank, name, and
22 command of the officer in charge of the interrogation, the
23 interrogating officers, and all other persons to be present during
24 the interrogation. All questions directed to the public safety officer
25 under interrogation shall be asked by and through no more than
26 two interrogators at one time.

27 (c) The public safety officer under investigation shall be
28 informed of the nature of the investigation prior to any
29 interrogation.

30 (d) The interrogating session shall be for a reasonable period
31 taking into consideration gravity and complexity of the issue being
32 investigated. The person under interrogation shall be allowed to
33 attend to his or her own personal physical necessities.

34 (e) The public safety officer under interrogation shall not be
35 subjected to offensive language or threatened with punitive action,



1 except that an officer refusing to respond to questions or submit to
2 interrogations shall be informed that failure to answer questions
3 directly related to the investigation or interrogation may result in
4 punitive action. No promise of reward shall be made as an
5 inducement to answering any question. The employer shall not
6 cause the public safety officer under interrogation to be subjected
7 to visits by the press or news media without his or her express
8 consent nor shall his or her home address or photograph be given
9 to the press or news media without his or her express consent.

10 (f) No statement made during interrogation by a public safety
11 officer under duress, coercion, or threat of punitive action shall be
12 admissible in any subsequent civil proceeding. This subdivision is
13 subject to the following qualifications:

14 (1) This subdivision shall not limit the use of statements made
15 by a public safety officer when the employing public safety
16 department is seeking civil sanctions against any public safety
17 officer, including disciplinary action brought under Section
18 19572.

19 (2) This subdivision shall not prevent the admissibility of
20 statements made by the public safety officer under interrogation
21 in any civil action, including administrative actions, brought by
22 that public safety officer, or that officer's exclusive representative,
23 arising out of a disciplinary action.

24 (3) This subdivision shall not prevent statements made by a
25 public safety officer under interrogation from being used to
26 impeach the testimony of that officer after an in camera review to
27 determine whether the statements serve to impeach the testimony
28 of the officer.

29 (4) This subdivision shall not otherwise prevent the
30 admissibility of statements made by a public safety officer under
31 interrogation if that officer subsequently is deceased.

32 (g) The complete interrogation of a public safety officer may
33 be recorded. If a tape recording is made of the interrogation, the
34 public safety officer shall have access to the tape if any further
35 proceedings are contemplated or prior to any further interrogation
36 at a subsequent time. The public safety officer shall be entitled to
37 a transcribed copy of any notes made by a stenographer or to any
38 reports or complaints made by investigators or other persons,
39 except those which are deemed by the investigating agency to be
40 confidential. No notes or reports that are deemed to be confidential

1 may be entered in the officer's personnel file. The public safety
2 officer being interrogated shall have the right to bring his or her
3 own recording device and record any and all aspects of the
4 interrogation.

5 (h) If prior to or during the interrogation of a public safety
6 officer it is deemed that he or she may be charged with a criminal
7 offense, he or she shall be immediately informed of his or her
8 constitutional rights.

9 (i) Upon the filing of a formal written statement of charges, or
10 whenever an interrogation focuses on matters that are likely to
11 result in punitive action against any public safety officer, that
12 officer, at his or her request, shall have the right to be represented
13 by a representative of his or her choice who may be present at all
14 times during the interrogation. The representative shall not be a
15 person subject to the same investigation. The representative shall
16 not be required to disclose, nor be subject to any punitive action
17 for refusing to disclose, any information received from the officer
18 under investigation for noncriminal matters. ~~In criminal matters,~~
19 ~~the~~ The representative shall not be required to disclose, nor be
20 subject to any punitive action for refusing to disclose, any
21 information received from the officer under investigation prior to
22 ~~the officer being~~ not related to a crime, whether a criminal
23 investigation is or is not in progress. Furthermore, an officer under
24 investigation shall be informed, in writing, ~~that the~~ when an
25 investigation involves criminal matters.

26 This section shall not apply to any interrogation of a public
27 safety officer in the normal course of duty, counseling, instruction,
28 or informal verbal admonishment by, or other routine or
29 unplanned contact with, a supervisor or any other public safety
30 officer, nor shall this section apply to an investigation concerned
31 solely and directly with alleged criminal activities.

32 (j) No public safety officer shall be loaned or temporarily
33 reassigned to a location or duty assignment if a sworn member of
34 his or her department would not normally be sent to that location
35 or would not normally be given that duty assignment under similar
36 circumstances.